

AMENDED IN SENATE JULY 1, 2013
AMENDED IN SENATE JUNE 18, 2013
AMENDED IN ASSEMBLY MAY 24, 2013
AMENDED IN ASSEMBLY APRIL 10, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 594

Introduced by Committee on Water, Parks and Wildlife (Assembly Members Rendon (Chair), Allen, Bigelow, Blumenfield, Bocanegra, Dahle, Fong, Frazier, Beth Gaines, Gatto, Patterson, and Yamada)
(Principal coauthor: Senator Hueso)

February 20, 2013

An act to amend Sections 541.5, 5007, 5010.6, and 5080.42 of the Public Resources Code, relating to state parks, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 594, as amended, Committee on Water, Parks and Wildlife. State parks: operating agreements: park closures.

(1) Existing law requires the Department of Parks and Recreation to achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system.

This bill would instead state that it is the intent of the Legislature that the department consistently operate the state park system, as specified. This bill would state that it is the intent of the Legislature, if budget

reductions necessitate changes to the continued operation of state park units, that the department achieve any required budget reductions by implementing efficiencies and increasing revenue collection or reducing services and that full park closures only be considered as a last option, as provided. The bill would require, for any park units proposed for closure on or after July 1, 2014, that the department document and publicly disclose, among other things, the methodology used to evaluate and select the park units proposed for closure.

Existing law requires the department to select park units for closure based on certain factors, including factors related to rate of visitation and proximity to other closed park units.

This bill would require that the rate of visitation be measured not only based on the raw number of visitations to the park unit, but also to the extent to which the total capacity of the park unit is used. The bill would eliminate proximity to other closed park units as a factor for closure. In addition, the bill would add additional factors for consideration, including the extent to which closure of a unit would increase public safety hazards or impair the state's ability to protect iconic natural and historical resources.

The bill would require the State Parks and Recreation Commission to hold a public hearing on any park unit closures that are proposed by the department on or after July 1, 2014.

(2) Existing law prohibits the department from closing or proposing to close a state park in the 2012–2013 or 2013–2014 fiscal year. Existing law authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the purposes of operating the entirety of a park unit, as identified by the director of the department, to the extent the operating agreement would enable the department to avoid closure of a unit or units of the state park system that may otherwise be subject to closure.

This bill would provide that the prohibition to close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year does not limit or affect the department's authority to enter into an operating agreement during the 2012–13 or 2013–14 fiscal year, for purposes of the operation of the entirety of a state park, as agreed to by the director, during the 2012–13 or 2013–14 fiscal year.

(3) Existing law establishes the State Parks Revenue Incentive Subaccount in the State Parks and Recreation Fund. Existing law continuously appropriates moneys in the account to the department to

create incentives for projects that are consistent with the mission of the department and generate revenue, as provided.

This bill would specify that projects referred to above include, but are not limited to, capital outlay projects.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 541.5 of the Public Resources Code is
2 amended to read:

3 541.5. (a) The department shall not close, or propose to close,
4 a state park in the 2012–13 or 2013–14 fiscal year. The commission
5 and the department shall recommend all necessary steps to establish
6 a sustainable funding strategy for the department to the Legislature
7 on or before January 1, 2015.

8 (b) There is hereby appropriated twenty million five hundred
9 thousand dollars (\$20,500,000) to the department from the State
10 Parks and Recreation Fund, which shall be available for
11 encumbrance for the 2012–13 and 2013–14 fiscal years, to be
12 expended as follows:

13 (1) Ten million dollars (\$10,000,000) shall be available to
14 provide for matching funds pursuant to subdivision (c).

15 (2) Ten million dollars (\$10,000,000) shall be available for the
16 department to direct funds to parks that remain at risk of closure
17 or that will keep parks open during the 2012–13 and 2013–14 fiscal
18 years. Priority may be given to parks subject to a donor or operating
19 agreement or other contractual arrangement with the department.

20 (3) Up to five hundred thousand dollars (\$500,000) shall be
21 available for the department to pay for ongoing audits and
22 investigations as directed by the Joint Legislative Audit Committee,
23 the office of the Attorney General, the Department of Finance, or
24 other state agency.

25 (c) The department shall match on a dollar-for-dollar basis all
26 financial contributions contributed by a donor pursuant to an
27 agreement for the 2012–13 fiscal year for which the department
28 received funds as of July 31, 2013, and for agreements entered

1 into in the 2013–14 fiscal year. These matching funds shall be
2 used exclusively in the park unit subject to those agreements.

3 (d) The department shall notify the Joint Legislative Budget
4 Committee in writing not less than 30 days prior to the expenditure
5 of funds under this section of the funding that shall be expended,
6 the manner of the expenditure, and the recipient of the expenditure.

7 (e) The prohibition to close, or propose to close, a state park in
8 the 2012–13 or 2013–14 fiscal year, pursuant to paragraph (a),
9 does not limit or affect the department’s authority to enter into an
10 operating agreement, pursuant to Section 5080.42, during the
11 2012–13 or 2013–14 fiscal year, for purposes of the operation of
12 the entirety of a state park during the 2012–13 or 2013–14 fiscal
13 year.

14 SEC. 2. Section 5007 of the Public Resources Code is amended
15 to read:

16 5007. (a) It is the intent of the Legislature that the department
17 consistently operate the state park system to preserve public access
18 and provide protection of natural, cultural, and historic resources.
19 If budget reductions necessitate changes to the continued operation
20 of state park units, it is the intent of the Legislature that the
21 department achieve required budget reductions by implementing
22 efficiencies and increasing revenue collection, or reducing services
23 at selected units of the state park system, and that full park closures
24 only be considered as a last option to address required budget
25 reductions after all other feasible alternatives, including, but not
26 limited to, entering into operating agreements with qualified
27 nonprofit entities and local governments have been explored.

28 (b) For any park unit proposed for closure on or after July 1,
29 2014, the department shall document and publicly disclose the
30 methodology, rationale, and scoring system used to evaluate and
31 select park units proposed for closure, and shall select any units
32 proposed to be closed based solely on all of the following factors:

33 (1) The relative statewide significance of each park unit,
34 preserving to the extent possible, parks identified in the
35 department’s documents including “Outstanding and
36 Representative Parks,” the “California State History Plan,” and
37 the “California State Parks Survey of 1928.”

38 (2) The rate of visitation to each unit, to minimize impacts to
39 visitation in the state park system. Visitation shall be measured

1 not only based on the raw number of visitations to the unit, but
2 also to the extent that the total capacity of the unit is used.

3 (3) (A) The estimated net savings from closing each unit, to
4 maximize savings to the state park system.

5 (B) For purposes of this subdivision, “net savings” means the
6 estimated costs of operation for the unit less the unit’s projected
7 revenues and less the costs of maintaining the unit after it is closed.

8 (4) The feasibility of physically closing each unit.

9 (5) The existence of, or potential for, partnerships that can help
10 support each unit, including public and nonprofit partners and
11 concessions.

12 (6) Significant operational efficiencies to be gained by closing
13 a unit.

14 (7) Significant and costly infrastructure deficiencies affecting
15 key systems at each unit so that continued operation of the unit is
16 less cost effective relative to other units.

17 (8) Recent or funded infrastructure investments at a unit.

18 (9) Necessary but unfunded capital investments at a unit.

19 (10) Deed restrictions and grant requirements applicable to each
20 unit.

21 (11) The extent to which there are substantial dedicated funds
22 for the support of the unit that are not appropriated from the
23 General Fund.

24 (12) The extent to which the closure of a park unit would impact
25 local and regional economies, or disproportionately impact one
26 region of the state over another, based on departmental data,
27 information, and statistics, or existing external data, information,
28 and statistics that are readily available to the department.

29 (13) The extent to which the closure of a park unit would limit
30 availability of facilities *within state parks* that are compliant with
31 the Americans with Disabilities Act of 1990 and subsequent
32 amendments to the act.

33 (14) The extent to which closure of a park unit would impair
34 firefighter access to water resources or otherwise increase fire risk.

35 (15) The extent to which closure of a park unit would increase
36 public safety hazards or impair the state’s ability to protect iconic
37 natural and historical resources.

38 (c) The commission shall hold a public hearing on any park unit
39 closures that are proposed by the department on or after July 1,
40 2014, and information gathered at the hearing shall be considered

1 by the department before any final decision regarding the proposed
2 closure of a park unit.

3 (d) Notwithstanding Division 3.6 (commencing with Section
4 810) of Title 1 of the Government Code, a public entity or a public
5 employee is not liable for injury or damage caused by a condition
6 of public property located in, or injury or damage otherwise
7 occurring in, or arising out of an activity in, a state park system
8 unit that is designated as closed by the department pursuant to
9 subdivision (a), except for conduct that constitutes gross negligence
10 or is wanton or reckless. This immunity shall apply notwithstanding
11 the fact that the public has access, whether invited or uninvited,
12 to the state park system unit, and notwithstanding that the
13 department may take actions such as patrols, inspections,
14 maintenance, and repairs necessary to protect the state park system
15 unit facilities and resources from deterioration, damage, or
16 destruction. This immunity shall apply only to units of the state
17 park system that are designated as closed pursuant to subdivision
18 (a) and shall not apply to units that are partially closed or subject
19 to service reductions but not closure. The closed units shall be
20 maintained in a list by the department and the list shall be made
21 publicly available and posted on the department's Internet Web
22 site. The list shall include the date the unit is considered closed.
23 The immunity provided by this subdivision does not limit any
24 other immunity or immunities available to a public entity or a
25 public employee. The governmental immunity provided in this
26 section does not apply to a third party or entity that has reopened
27 a park listed as closed pursuant to subdivision (a). The immunity
28 shall continue to apply to the state.

29 SEC. 3. Section 5010.6 of the Public Resources Code is
30 amended to read:

31 5010.6. (a) For purposes of this section, "subaccount" means
32 the State Parks Revenue Incentive Subaccount created pursuant
33 to this section.

34 (b) The State Parks Revenue Incentive Subaccount is hereby
35 created within the State Parks and Recreation Fund and the
36 Controller shall annually transfer fifteen million three hundred
37 forty thousand dollars (\$15,340,000) from the State Parks and
38 Recreation Fund to the subaccount.

39 (c) Notwithstanding Section 13340 of the Government Code,
40 the funds in the subaccount are hereby continuously appropriated

1 to the department to create incentives for projects, including, but
2 not limited to, capital outlay projects, that are consistent with the
3 mission of the department and that generate revenue, except the
4 department shall not expend from the subaccount more than eleven
5 million dollars (\$11,000,000) annually pursuant to Section 5003.

6 (d) The Office of State Audits and Evaluations shall review the
7 activities funded from the subaccount pursuant to subdivision (c)
8 to ensure appropriate internal controls are in place. The department
9 shall reimburse the Office of State Audits and Evaluations from
10 the subaccount for any costs related to the review.

11 (e) The revenue generated from projects funded by the
12 subaccount shall be deposited in the subaccount and are
13 continuously appropriated for expenditure by the department in
14 accordance with the following:

15 (1) At least 50 percent of the revenue generated shall be
16 expended in the district of the department that earned that revenue,
17 as an incentive for revenue generation.

18 (2) The remaining revenue may be expended by the department
19 pursuant to subdivision (c), including, but not limited to, for
20 expenditure pursuant to Section 5003.

21 (f) The funds in the subaccount shall be available for
22 encumbrance and expenditure until June 30, 2014, and for
23 liquidation until June 30, 2016.

24 (g) This section shall become inoperative on June 30, 2016,
25 and, as of January 1, 2017, is repealed, unless a later enacted
26 statute, that becomes operative on or before January 1, 2017,
27 deletes or extends the dates on which it becomes inoperative and
28 is repealed.

29 SEC. 4. Section 5080.42 of the Public Resources Code is
30 amended to read:

31 5080.42. (a) Notwithstanding any other provision of this
32 article, the department may enter into an operating agreement with
33 a qualified nonprofit organization for the development,
34 improvement, restoration, care, maintenance, administration, or
35 operation of a unit or units, or portion of a unit, of the state park
36 system, as agreed to by the director. If the department enters into
37 an operating agreement that involves the operation of the entirety
38 of a park unit, that agreement may be entered into pursuant to this
39 section only to the extent that the agreement would enable the
40 department to avoid closure of a unit or units of the state park

1 system that may otherwise be subject to closure. The prohibition
2 on park closures, pursuant to subdivision (a) of Section 541.5, does
3 not limit the department's authority to enter into an operating
4 agreement pursuant to this section, as provided in subdivision (e)
5 of Section 541.5. The department may only enter into an operating
6 agreement that involves the operation of the entirety of a park unit
7 for no more than 20 park units. An operating agreement with a
8 qualified nonprofit organization shall include, but shall not be
9 limited to, the following conditions:

10 (1) The district superintendent for the department shall provide
11 liaison with the department, the nonprofit organization, and the
12 public.

13 (2) The nonprofit organization shall annually submit a written
14 report to the department regarding its operating activities during
15 the prior year and shall make copies of the report available to the
16 public upon request. The report shall be available on the Internet
17 Web sites of both the department and the nonprofit organization.
18 The report shall include a full accounting of all revenues and
19 expenditures for each unit of the state park system that the
20 nonprofit organization operates pursuant to an operating agreement.

21 (3) (A) Except as provided in subparagraph (B), all revenues
22 that the qualified nonprofit organization receives from a unit shall
23 be expended only for the care, maintenance, operation,
24 administration, improvement, or development of the unit. The
25 qualified nonprofit organization may additionally contribute in-kind
26 services and funds raised from outside entities for the care,
27 maintenance, operation, administration, improvement, or
28 development of the unit.

29 (B) If the qualified nonprofit organization determines that the
30 revenues it has received from a unit are in excess of the revenues
31 that are needed for the care, maintenance, operation, administration,
32 improvement, or development of that unit, and that these funds
33 are not already specified for or committed to specific purposes
34 pursuant to an existing agreement or contract restricting the use
35 of those funds, the qualified nonprofit organization may dedicate
36 those excess revenues to another state park unit for that unit's care,
37 maintenance, operation, administration, improvement, or
38 development.

39 (4) General Fund moneys shall not be provided to a nonprofit
40 organization to subsidize the operation or maintenance of a park

1 unit. This paragraph applies to state parks, the full operation of
2 which are turned over to a nonprofit organization, but does not
3 apply to or preclude the department from entering into agreements
4 with nonprofit organizations to operate a portion of a state park
5 unit, or from entering into comanagement agreements with
6 nonprofit organizations that involve the sharing of operational and
7 financial responsibilities for the park unit and that have the effect
8 of reducing state costs. This paragraph does not apply to park
9 entrance fees, concession revenues, or any other revenues generated
10 within a park operated by a nonprofit organization pursuant to this
11 section.

12 (b) An operating agreement entered into pursuant to subdivision
13 (a) shall honor the existing term of a current concession contract
14 for the state park unit subject to the operating agreement.

15 (c) An operating agreement entered into pursuant to subdivision
16 (a) shall specify the duties that the nonprofit organization shall be
17 responsible for carrying out relative to management and protection
18 of natural, historical, and cultural resources, and shall identify
19 those management duties that shall continue to be conducted by
20 the department, so that all core operations of the park are
21 delineated. Scientific, architectural, and engineering functions that
22 require special expertise or professional training shall only be
23 conducted by or under the supervision of qualified persons with
24 applicable expertise or training and subject to oversight by the
25 department.

26 (d) This section does not supersede the requirements of Section
27 5019.53 regarding the protection of natural, scenic, cultural, and
28 ecological values.

29 (e) The nonprofit organization and the district superintendent
30 for the department shall, following submittal of the annual report
31 pursuant to subdivision (a), hold a joint public meeting for
32 discussion of the report.

33 (f) If the department intends to enter into an operating agreement
34 for the development, improvement, restoration, care, maintenance,
35 administration, or operation of a unit or units, or a portion of a
36 unit, the department shall notify the Member of the Legislature in
37 whose district the unit is located, the Chair of the Senate Committee
38 on Natural Resources and Water, the Chair of the Assembly
39 Committee on Water, Parks and Wildlife, and the chairs of the
40 Assembly and Senate budget committees of that intention. The

1 notification shall include estimated operating costs and revenues
2 and core duties and responsibilities that are likely to be assigned
3 to the nonprofit organization and the department.

4 (g) For purposes of this section, a qualified nonprofit
5 organization is an organization that is all of the following:

6 (1) An organization that is exempt from taxation pursuant to
7 Section 501(c)(3) of the Internal Revenue Code.

8 (2) An organization that has as its principal purpose and activity
9 to provide visitor services in state parks, facilitate public access
10 to park resources, improve park facilities, provide interpretive and
11 educational services, or provide direct protection or stewardship
12 of natural, cultural, or historical lands, or resources.

13 (3) An organization that is in compliance with the Supervision
14 of Trustees and Fundraisers for Charitable Purposes Act, Article
15 7 (commencing with Section 12580) of Chapter 6 of Part 2 of
16 Division 3 of Title 2 of the Government Code.

17 (h) (1) Notwithstanding Section 10231.5 of the Government
18 Code, the department shall provide a report to the Legislature, on
19 a biennial basis, of the status of operating agreements it has entered
20 into pursuant to this section. The report shall include a list of units
21 of the state park system with operating agreements, discussion of
22 the management and operations of each unit subject to an operating
23 agreement, an accounting of the revenues and expenditures incurred
24 under each operating agreement, and an assessment of the benefit
25 to the state from operating agreements entered into pursuant to
26 this section.

27 (2) A report submitted pursuant to paragraph (1) shall be
28 submitted in compliance with Section 9795 of the Government
29 Code.

30 (i) This section shall remain in effect only until January 1, 2019,
31 and as of that date is repealed, unless a later enacted statute, that
32 is enacted before January 1, 2019, deletes or extends that date.

33 SEC. 5. This act is an urgency statute necessary for the
34 immediate preservation of the public peace, health, or safety within
35 the meaning of Article IV of the Constitution and shall go into
36 immediate effect. The facts constituting the necessity are:

37 In order to enable the state to as soon as possible enter into
38 partnerships and generate the revenues necessary to keep state
39 parks open to the public, and to preserve the parks' vital role in

- 1 ensuring healthy communities, it is necessary that this bill take
- 2 effect immediately.

O